

REMARKS

Claims 7 – 19 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

CLAIM OBJECTIONS

Claim 1 stands objected to because the Examiner has noted that the phrase “modeling said battery with a linear equation” is not correct since battery measured variables are modeled. Applicants respectfully note that claim 1, which has been withdrawn, does not include the above-described phrase.

Claim 7, however, does include the objected to phrase. Applicants assume that the Examiner intended to object to claim 7 based on the above-described phrase. Therefore, Applicants have amended claim 7 to provide “modeling battery measured variables of said battery”. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Although not presently objected to, Applicants further note that claim 13 has similarly been amended.

REJECTION UNDER 35 U.S.C. § 112

Claim 9 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

The Examiner has asserted that “a synthesized input” is not clear since the specific input is not defined. Applicants respectfully note that, claim 9 has been amended to provide “a compensated input” as supported in the original specification (see Paragraph [0030]). Applicants further note that claims 13, 16 and 17 have similarly been amended to include “compensated input”.

REJECTION UNDER 35 U.S.C. § 103

Claims 7, 8 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Verbrugge et al. (U.S. Pat. No. 6,359,419) in view of Tate, Jr. et al (U.S. Pat. No. 6,441,586). This rejection is respectfully traversed.

Applicants have submitted herewith a declaration under 37 CFR §1.132 attesting to the fact that the inventors named in the present application invented the subject matter that is disclosed but not claimed in both Verbrugge et al. and Tate, Jr. et al. Therefore, neither Verbrugge et al. nor Tate, Jr. et al. qualify as prior art because neither is "by another" as required under 35 U.S.C. §102(e).

Accordingly, claims 7, 8 and 12 are in condition for allowance and reconsideration and withdrawal of the rejections are respectfully requested.

Applicants note that claims 13 – 19 are also pending in the present application. In response to the Restriction and/or Election Requirement dated October 27, 2004, Applicants filed a Response dated November 24, 2004 electing Group II, Claims 7 – 19. Applicants note that claims 13 – 19 are also in condition for allowance on the grounds stated above with respect to claims 7, 8 and 12.

With regard to claims 8, 9, 12 and 14 – 19, Applicants note that each ultimately depends from one of claims 7 and 13, which are in condition for allowance as discussed above. Therefore, claims 8, 9, 12 and 14 – 19 are also in condition for allowance for at least the reasons stated above with respect to claims 7 and 13.

ALLOWABLE SUBJECT MATTER

The Examiner states that claims 10 and 11 would be allowable if rewritten in independent form. Applicants have presently refrained from amending claims 10 and 11 in view of the discussion herein.

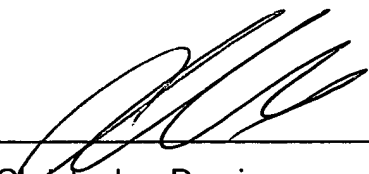
CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (313) 665-4969.

If for some reason a fee needs to be paid please charge Deposit Account No. 07-0960 for the fees, which may be due.

Respectfully submitted,

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